



Debt Issuance
CITY OF AUSTIN
RECOMMENDATION FOR COUNCIL ACTION

AGENDA ITEM NO.: 3
AGENDA DATE: Thu 01/29/2004
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SUBJECT: Approve a resolution declaring the City of Austin's official intent to reimburse itself in the amount of \$5,300,000 for costs related to the settlement of *Christopher Ochoa v. City of Austin, et al.*, from the proceeds of General Obligation Refunding Bonds and to amend the two-year General Obligation Bond Sale Schedule. (The Internal Revenue Code provides that a municipality must declare its intent to finance a current expenditure with proceeds from the future sale of a specific tax-exempt obligation.)

AMOUNT & SOURCE OF FUNDING: \$5,300,000 to be reimbursed from the issuance of General Obligation Refunding Bonds in September 2004.

FISCAL NOTE: There is no unanticipated fiscal impact. A fiscal note is not required.

REQUESTING Financial and **DIRECTOR'S**
DEPARTMENT: Administrative Services - **AUTHORIZATION:** Vickie Schubert
Treasury

FOR MORE INFORMATION CONTACT: Vickie Schubert, Acting Director of Finance and Admin. Services 974-3344

PRIOR COUNCIL ACTION: N/A

BOARD AND COMMISSION ACTION: N/A

As required by federal tax and bond law, this action expresses the City Council's intent to authorize reimbursement for costs associated with the settlement of *Christopher Ochoa v. City of Austin, et al.*

For the City to spend money today, but reimburse itself from the issuance of debt obligations in the future, a reimbursement resolution is required by state and federal law. The resolution must contain certain information and is drafted to protect the tax-exempt status of the future issuance. The resolution must be passed not more than 60 days after the date that the cost to be reimbursed is paid. Failure to adopt a qualified declaration of official intent will prohibit the City from reimbursing the cost with the proceeds of tax-exempt obligations. Reimbursement bonds generally must be issued no later than 18 months after the later of, the date the expenditure was made, or the date the project, with respect to which the expenditure was made, is placed in service.

RESOLUTION NO. 04

WHEREAS, the City of Austin (the "Issuer") is a home rule city authorized to issue obligations to finance its activities, the interest on which is excludable from gross income for federal income tax purposes ("tax-exempt obligations") pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the Issuer will make, or has made not more than 60 days before this date, payment of \$5,300,000 for costs to be paid as reimbursements from the issuance of General Obligation Refunding Bonds related to the settlement between the City of Austin and Christopher Ochoa; and

WHEREAS, the Issuer has concluded that it does not currently desire to issue tax-exempt obligations to finance this payment; and

WHEREAS, the Issuer desires to reimburse itself for this payment from the proceeds of tax-exempt obligations to be issued subsequent to this date; and

WHEREAS, the Issuer reasonably expects to issue tax-exempt obligations to reimburse itself; **NOW, THEREFORE,**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

The Issuer reasonably expects to reimburse itself for all costs that have been paid during the 60 days preceding this date or that will be paid after this date from the proceeds of tax-exempt obligations in connection with these costs for settlement between the City of Austin and Christopher Ochoa; and

The Issuer reasonably expects that the maximum principal amount of tax-exempt obligations issued to reimburse the Issuer for the above stated costs will not exceed \$5,300,000.

BE IF FURTHER RESOLVED:

The Council amends the two-year General Obligation Bond Sale Schedule for FY 2003-2004 to provide for this expenditure.

ADOPTED:____, 2004 **ATTEST:**_____
Shirley A. Brown
City Clerk